



Annual Report 2023

Citizenship and Immigration Services Ombudsman
Executive Summary

June 30, 2023



Homeland
Security

2023 ACTING OMBUDSMAN'S MESSAGE



I am very pleased to submit this year's Annual Report to Congress on behalf of the Office of the Citizenship and Immigration Services Ombudsman (CIS Ombudsman) regarding the challenges faced in our immigration benefits system, this time examining calendar year 2022. This Report, presented each year on June 30, details the urgent systemic issues affecting U.S. Citizenship and Immigration Services (USCIS) and identifies potential solutions to resolve these problems.

In last year's Annual Report, we explained the adverse impacts experienced by both USCIS and its stakeholders as a result of the unprecedented backlogs the agency has accumulated due to the effects of the COVID-19 pandemic and other systemic challenges. This year's Report examines the downstream impacts of those backlogs and the additional challenges facing the agency. It further recommends some actions USCIS can take to address not only the human consequences suffered by applicants, families, and employers, but also the detrimental impacts on the agency.

We were very pleased that this year, USCIS engaged with us beyond last year's Annual Report, discussing with our office not only their written responses, but specific actions they are taking and continue to contemplate in light of our recommendations. As a small office of fewer than 50 federal employees, the agency dwarfs us in its resourcefulness and knowledge of its own issues. But our vantage point, in particular our ability to engage with

a diverse range of stakeholders, enables us to shed light on those challenges with a unique voice. Although we do not always agree, we deeply appreciate the ear lent to us by Director Ur Jaddou, USCIS leadership, and the USCIS workforce at all levels. The agency's continued collaboration and willingness to engage with us has enhanced our ability to provide thoughtful and practical solutions to some of the biggest challenges facing the immigration system.

One such opportunity related to what we refer to as an "informal" recommendation—an idea offered to the agency to cure a problem we see without rising to the level of a more formal recommendation and response process. These suggestions are offered always with the spirit of curing a trending problem. In the summer of 2022, we noticed increasing processing times for Form I-90, *Application to Replace Permanent Resident Card (Green Card)*, to the point where they extended well beyond the 12-month period provided by the receipt notice as proof of employment and travel authorization. This meant applicants seeking to replace or extend their valid Green Cards were facing a gap of several months in which they could neither seek work nor travel internationally. In August, we recommended that USCIS deal with the symptom of that gap, as it was unclear it could bring processing times down quickly enough to avoid leaving a significant number of people without evidence of status, and extend the validity period of the receipt. USCIS not only took action the next month by changing the validity period of the receipt, but they also provided a new receipt to everyone with a pending application, ensuring the gap would not hinder any applicant's travel or employment.

The Downstream Impacts of 2022

In many respects, both USCIS and our office remain focused on the still significant backlogs and the problems resulting from them, attempting to address symptoms while the agency works to decrease processing times as it declared it would do in March 2022. These delays are still a major concern for the agency. It has made substantial improvements in many areas; processing times for employment authorization, for example, have significantly decreased from even one year ago. But many processing times are still not within the goals set in March 2022 by the

agency—goals they were reaching for by the end of Fiscal Year (FY) 2023 and some of which are still not likely to be reached. Accordingly, we will continue to work with USCIS to alleviate the symptoms of continuing backlogs and, to the extent possible, offer ideas to minimize those backlogs as the agency strives to achieve more reasonable benefit processing times.

Not all the reasons USCIS is struggling with processing times are within its control. Global events over the past few years have found their way into the U.S. immigration system and have challenged the agency to maximize its already stretched resources. Climate events, political strife, and economic upheavals have taken their toll on the agency’s capacity to serve all its customers. A growing humanitarian workload has tested the agency’s technologies, its human capital, and its leadership to not only do more with less, but to identify new capacities and new processes. While Congress has appropriated money to help the agency address some of its most significant humanitarian workloads, the agency still operates on fees no longer adequate to fully cover the magnitude of the work. These populations, moreover, will present challenges to the immigration system for some time. Parole populations, those afforded Temporary Protected Status, those seeking asylum, and others will continue to impact USCIS workloads for potentially years to come. The Department of Homeland Security (DHS) and its components, including both USCIS and the CIS Ombudsman, will need to apply every ingenuity to address these needs while still maintaining the full integrity of the immigration benefits system.

Our recommendations this year, as a result, attempt to contend with some of these downstream impacts, and address some of the long-term impacts the continuing backlogs—and the new challenges—will create. Efficiencies now will help the agency cope in the years ahead as these new populations entering the country, for example, navigate their way into and through our nation’s immigration system.

The Downstream Impacts Flow to the CIS Ombudsman

The CIS Ombudsman, too, has maximized its resources to meet the challenges that also flowed to us as a result of the agency’s situation. Our focus this past year has been on customer service, contending with the ongoing exponential increase we have seen in requests for case assistance. We have, however, been tasked to assist the efforts of the Department in other ways. We provided detailees to the Office of the Secretary, to U.S. Immigration and Customs

Enforcement, and to U.S. Customs and Border Protection in support of the Administration’s immigration priorities, including 2 individuals assigned to assist the efforts of the Family Reunification Task Force. In 2022, we also provided 2 detailees to support the Department’s efforts on the Southwest border. We still found time to seek to improve our work with USCIS, revising our Memorandum of Understanding with the agency to enhance the details of our working relationship. We also assisted the agency in focusing on customer service through a continuing collaboration with the USCIS Office of Access and Information Services.

Our focus on customer service reverberated in many of our actions this year. We began the process of building an external web portal to better serve the public in need of our assistance. We revised DHS Form 7001, *Request for Case Assistance*, to ease the burden on individuals and employers and provide us with more information to better assist them. We implemented a number of efficiencies, including the use of data to close cases where USCIS has already taken action after the request for assistance was filed with our office. We are also working to review cases more quickly, revamping our review and triage process to conform more closely to the agency’s activities and to be performed more efficiently. We were able to reduce our own backlog of pending requests by 69 percent in 2022 and reach a standard triage time of 3 working days. We continue, however, to seek ways to address issues more quickly and precisely for requestors; to that end, we are working to build end-to-end connectivity to USCIS systems to enable us to receive better information and be more accurate with requests.

Our public engagement activities, too, focused on customer service. We were able to move further into the age of social media, expanding our reach through Twitter as well as Facebook. We expanded our use of videos in both English and Spanish, to reach a more visual audience. We took a more targeted approach, seeking out direct engagements with embassies to better assist larger populations, especially those needing humanitarian outreach. In addition, we collaborated with USCIS to provide more proactive messaging to the public on several subjects, including its employment-based immigrant visa usage, through new frequently asked questions published on the agency’s website and two joint webinars on the topic.

The CIS Ombudsman’s policy efforts were concentrated on fixing problems as they arose, many through informal recommendations to individual program offices and directorates. These not only included the use of increasing

the validity period of receipts to extend their use for employment and travel as mentioned above, but ranged from process “fixes,” such as temporarily increasing the maximum limit on individual daily credit card payments accepted by the Department of the Treasury to \$40,000 to enable employers to avoid “maxing out” credit card payments on H-1B cap petitions, to addressing delayed adjudication of derivatives of employment-based adjustment applicants and problems related to “aging out” of these applicants. The agency collaborated with us on their downstream populations, including improving access to Alien Documentation, Identification, and Telecommunication (ADIT) stamps for evidence of employment and travel authorization and working to access parole extensions for populations through more efficient use of existing technologies. Our hope in the coming year is to expand the public’s access to bringing us systemic issues through a new mailbox designed and staffed for that purpose.

Moving Forward

USCIS continues to face many challenges ahead. The already-present challenge of reining in its considerable backlogs has been further complicated by the additional immediate work and ongoing long-term impacts of new populations that will continue to have a need for its services. These goals require the agency’s full attention.

While USCIS is strained in many respects by these additional workloads, it is not without resources. It has already leveraged technologies to ensure efficiency—every one of our studies looks to technologies to continue to assist the agency moving forward to reduce backlogs and provide a higher level of customer service. It also has its chief resource—approximately 20,000 employees—steeped in the central mission of the agency. And it has the ongoing mission of the agency, to ensure, as Director Jaddou noted in the USCIS Fiscal Years’ 2023-2026 Strategic Plan, the agency’s “longstanding mission and firm commitment to making the United States a stronger, more inclusive, and welcoming nation, and preserving the integrity of the U.S. immigration programs we administer.”

With help from Congress for badly needed resources; from stakeholders who provide insightful feedback; and from its partners, such as our office, who constructively collaborate to ensure the agency completes its mission fairly and on time, the agency can proceed on course to master its daunting tasks.

The CIS Ombudsman’s Office is equally committed to continuing and improving the timeliness of our case assistance, expanding our engagement and outreach, and enhancing our responsiveness on policy issues. I am incredibly grateful for the staff of the CIS Ombudsman, who have helped us continue the efforts initiated under our last Ombudsman, Phyllis Coven, to streamline our case assistance services, to offer timely and practical solutions to difficult challenges, to broaden our engagement with the public, and to modernize our use of technology. On behalf of our team, I want to thank Phyllis for her leadership these last 2 years as we moved to modernize our operations and mature our organization. We have made tremendous strides in these areas through determination and diligent resolve. This dedicated group of individuals has worked tirelessly to provide our unique services to USCIS and the public we both serve. We will continue to fulfill our role in removing barriers within the immigration system and to strive toward a benefits process that is accessible, fair, and provides a well-reasoned decision in a reasonable amount of time.



Nathan Stiefel
(Acting) Citizenship and Immigration Services Ombudsman

EXECUTIVE SUMMARY

The Office of the Citizenship and Immigration Services Ombudsman (CIS Ombudsman) in this 2023 Annual Report covers calendar year 2022, as well as key developments in early 2023. The report contains:

- An overview of the CIS Ombudsman’s mission and services;
- A review of U.S. Citizenship and Immigration Services’ (USCIS’) programmatic and policy challenges during this reporting period; and
- A detailed discussion of pervasive problems, recommendations, and best practices in the administration of our immigration laws.

Backlogs in the Long Term: 2022 in Review

USCIS began the year fully cognizant of its challenges in decreasing processing times and getting its backlogs under control and took significant steps to accomplish those goals. But 2022 brought with it significant new tasks for the agency that would create their own processing and operational challenges—challenges that the agency continues to grapple with in 2023 and which will impact future workloads. This Annual Report examines several of those challenges and makes 23 recommendations to improve operations, assist in fixing processing and policy issues, and address some of the agency’s largest challenges.

The Growing Humanitarian Mission of USCIS and its Impact on Future Workloads

Some of the backlogs that took precedence in 2022 were not entirely of the agency’s own making. Global upheaval, political confrontations, and climate issues created populations in need of temporary protection, and the United States took on its share of assistance to these populations. Each program responded in different ways to different emergency scenarios, and the agency stretched

both its resources and its ingenuity to respond. But these programs will continue to present operational challenges to USCIS in the coming years. As these populations navigate the immigration system, USCIS should consider ways to mitigate the impact:

- Develop streamlined mechanisms and approaches for workloads resulting from humanitarian parole programs by establishing a more coordinated, population-specific approach for filing and processing immigration benefits for parolees accepted through these programs.
- Revise existing operational approaches and flexibilities in processing work authorization for parolees.
- Develop and implement a communications strategy for each parole program so that USCIS can provide information to parolees before their parole period expires.
- Establish specific asylum processing groupings for populations in these humanitarian parole programs.
- Continue to leverage the need for background and security checks by expanding the suspension of biometrics requirement to re-parole applicants and employment authorization renewal filings and eliminating the multiplicity of biometrics collections as a vetting necessity.
- Consider seeking some continuing form of appropriated funds to address additional USCIS workloads caused by humanitarian parole programs.

The Use of Requests for Additional Evidence in L-1 Petitions

Stakeholders continue to report difficulties related to USCIS’ issuance of requests for evidence (RFEs), a topic first studied by the CIS Ombudsman in 2010. This time, we are specifically looking at RFEs issued for extension petitions for the L-1A and L-1B nonimmigrant categories, based on stakeholder reports of overly broad and burdensome RFEs, duplicative RFEs, inconsistent adjudications, lack of deference to previous decisions,

and a misunderstanding of the standard of proof. While USCIS has made improvements to its RFE processes, more can be undertaken. To improve the quality of RFEs in L-1 petitions, and based upon the information provided above, we recommend that USCIS take steps to:

- Develop and provide training that ensures adjudicators understand how to apply the preponderance of evidence legal standard to the evidence typically presented in each type of case.
- Develop and provide annual training to ensure that adjudicators know how to comply with applicable regulations for L-1 extension cases.
- Streamline the L-1 extension petition adjudication for cases involving the same facts with no material changes (such as the same petitioner/beneficiary/job).
- Update RFE templates and systems to ensure that they are current, understandable, and concise.
- Establish a robust quality assurance program for RFEs.

Temporary Protected Status: The Impact and Challenges of Increased Demand

The benefits of Temporary Protected Status (TPS), which provides temporary protection against deportation and work authorization to nationals of designated countries, are critical to those who benefit, but they mean that the agency carries a larger and more complex workload with each new designation or extension. There are now 16 countries with TPS designation, and almost 700,000 people who now hold this benefit in the United States. Processing work authorization for these populations in itself is a never-ending task for the agency. USCIS has taken steps to address its backlogs, but processing times continue to increase. To enhance its management of these populations, USCIS might consider some operational changes:

- Post processing times for each population seeking TPS to better inform applicants on their real wait times for status, work authorization, and travel authorization.
- Better educate employers and benefit-granting agencies (such as Divisions of Motor Vehicles and the Social Security Administration) on how to verify employment eligibility and proof of status of TPS beneficiaries to ease fears of noncompliance.
- Eliminate the separate employment authorization document (EAD) application for TPS applicants.

- Consider pursuing legislative changes to extend TPS designation periods.
- Increase case processing through technological solutions.

A Look Back at USCIS' Unprecedented Fiscal Year 2022 Efforts to Use All Employment-Based Immigrant Visas

The unique challenges the agency encountered from Fiscal Year (FY) 2020 through FY 2022—years that corresponded to the COVID-19 pandemic—with respect to immigrant visa issuance compelled the agency to be increasingly innovative. In FY 2022, USCIS faced a daunting challenge to issue more than 280,000 employment-based immigrant visas, more than double the normal amount. Working with the Department of State, USCIS fully committed its resources to adjudicating these applications and succeeded in issuing all available visas. This historic completion rate came at a cost, however. By prioritizing this adjudication, others were further delayed, at a time when backlogs have never been more severe. To maintain the momentum and some of the best practices employed at that time, the CIS Ombudsman recommends that USCIS should:

- Explore the immediate digitization of Form I-693, *Report of Immigration Medical Examination and Vaccination Record*. In the meantime, the agency should consider establishing a central location for the receipt of new or updated medical examinations, like the centralized process created for transfers of underlying basis in FY 2022.
- Expand and build on efforts to create innovations in adjudicating adjustments, such as retrieving missing documents with in-person contact, and reusing biometrics to the extent possible, or even exempt certain benefits from biometrics collection altogether, as the agency suggested it will do for Form I-539, *Application to Extend/Change Nonimmigrant Status* applicants.
- Reassess and maximize risk-based assessment for interview referrals.

Improving the Customer Experience from the Contact Center to the Field

In connection with the President's *Executive Order on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government*, USCIS is undertaking numerous initiatives to improve customer service. With its mission of immigration benefits administration, the agency has the particular challenge of serving a vast customer base that covers all backgrounds, nationalities, educational levels, and interests. As USCIS strives to provide more effective customer service, we offer the following suggestions for the agency to consider:

- Capitalize on technological advances to expand in-person services, including implementing virtual InfoPass appointments and additional remote capabilities, increasing the use of circuit rides, and encouraging agency-wide use of expanded-jurisdiction in-person information services.

- Use communications to improve the customer experience, and ensure they are widely publicized and reachable.
- Incorporate consistent training to build a customer service-oriented workforce.
- Invest in training and providing Contact Center representatives with the tools to be able to resolve issues more quickly.



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